United Nations CAT/C/DNK/QPR/8

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

List of issues prior to submission of the eighth periodic report of Denmark*

Specific information on the implementation of articles 1–16 of the Convention, including with regard to the Committee's previous recommendations

Follow-up questions from the previous reporting cycle

1. In its previous concluding observations (see CAT/C/DNK/CO/6-7, para. 50),[1] the Committee requested the State party to provide further information regarding areas of particular concern identified by the Committee, namely incorporation of the Convention into domestic law; deportation of vulnerable individuals; screening of and assistance to asylum seekers who are victims of torture; and separation of convicts and remand prisoners (paras. 13, 21, 23 and 37). Noting that a reply concerning the information sought by the Committee was provided on 9 December 2016 (CAT/C/DNK/CO/6-7/Add.1), and with reference to the letter dated 10 May 2018 from the Committee's Rapporteur for follow-up to concluding observations, the Committee considers that the recommendations included in paragraphs 13, 21 and 37 have not yet been implemented (see, respectively, paras. 3, 9 and 20 of the present document). The recommendation included in paragraph 23 of the previous concluding observations is considered to have been partially implemented.

Articles 1 and 4

2. With reference to the Committee's previous concluding observations (paras. 10–11), please provide information on the measures taken to make torture a separate and specific crime in national legislation.[2]

Article 2[3]

3. Further to the previous concluding observations (paras. 12–13) and the State party's follow-up replies,[4] please provide updated information on any changes in the State party's

* Adopted by the Committee at its sixty-third session (23 April–18 May 2018).

[1] Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee.

[2] See CCPR/C/DNK/CO/6, paras. 21–22.

[3] The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2 by States parties, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent such ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.

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position on incorporating the Convention into Danish law, as recommended by the Committee. Please also provide information on any cases in which the Convention has been invoked before national courts.

4. With reference to the Committee's previous concluding observations (paras. 14–15), please provide information on the measures taken by the State party and on the procedures in place to ensure that all detainees enjoy in practice all fundamental legal safeguards from the outset of their deprivation of liberty, in particular the right to be informed of their rights, to have access to a lawyer, to request and receive an examination by an independent medical doctor in full confidentiality and to notify a relative or any other person of their choice of their arrest.

5. In view of the designation in 2007 of the Parliamentary Ombudsman as the national preventive mechanism under the Optional Protocol to the Convention, please provide information on the Ombudsman's activities and achievements with respect to the prevention of torture and ill-treatment during the period under review. In this regard, please provide data on the visits to places of detention carried out by the national preventive mechanism during the period under review and the outcome of those visits. Please also provide updated information on the material, human and budgetary resources allocated for the effective functioning of the national preventive mechanism.

6. With reference to the Committee's previous concluding observations (paras. 44–45), please provide information on the measures taken to combat all forms of violence against women, particularly with regard to cases that involve the actions or omissions of State authorities or others that engage the State party's international responsibility in accordance with the Convention. Please also provide updated information on the protection and support services available to victims of all forms of violence against women that involve actions or omissions of the State authorities.[5] Has the State party taken steps to ensure the availability of an adequate number of shelters for women and children subject to domestic violence? Please include statistical data, disaggregated by the age and ethnicity or nationality of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences recorded in cases of gender-based violence since the consideration of the previous periodic report of Denmark.[6] Please provide up-to-date information on the measures taken to strengthen training programmes for law enforcement officers aimed at raising awareness about domestic and sexual violence.

7. Please provide updated information, disaggregated by the age, sex and ethnicity or nationality of the victims, on the number of complaints, investigations, prosecutions and sentences recorded in cases of trafficking in persons since the consideration of the State party's previous report.[7] Please also provide information on:

(a) Any new legislation or measures that have been adopted to prevent, combat or criminalize trafficking in persons;[8]

(b) The measures adopted to ensure that victims of trafficking have access to effective remedies and reparation;

(c) The measures taken to ensure that non-custodial accommodation is provided, with full access to appropriate medical and psychological support, for potential victims of trafficking while identification processes are carried out;[9]

(d) The signature of agreements with countries concerned to prevent and combat trafficking in persons.

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[4] See CAT/C/DNK/CO/6-7/Add.1, paras. 2–7.

[5] See CERD/C/DNK/CO/20-21, para. 16.

[6] See A/HRC/32/10, paras. 120.105–110 and 120.114; CCPR/C/DNK/CO/6, paras. 19–20; CEDAW/C/DNK/CO/8, paras. 17–18; and CRC/C/DNK/CO/5, para. 22.

[7] See A/HRC/32/10, paras. 120.115–116, 120.119–125 and 120.196; and CCPR/C/DNK/CO/6, paras. 29–30.

[8] See CRC/C/DNK/CO/5, para. 43.

[9] See CEDAW/C/DNK/CO/8, paras. 19–21.

Article 3

8. Please describe the measures taken during the period under review to ensure that no person is returned to a country where he or she would be in danger of torture. Please indicate whether individuals facing expulsion, return or extradition are informed that they have the right to seek asylum and to appeal a deportation decision, and whether such an appeal has suspensive effect. How does the State party guarantee access to independent, qualified and free-of-charge legal assistance and interpretation services for asylum seekers throughout the asylum procedure?

9. Please provide information about the number of asylum applications received during the period under review, the number of successful applications and the number of asylum seekers whose applications were accepted because they had been tortured or might be tortured if returned to their country of origin. Please include information, disaggregated by sex, age and country of origin, on the number of persons who have been returned, extradited or expelled since the consideration of the previous report. Please provide details of the grounds on which they were sent back,[10] including the list of countries to which individuals were returned. Has the State party put in place mechanisms to monitor the situation of vulnerable individuals and groups in receiving countries after their deportation (paras. 20–21)?

10. In the light of the Committee's previous concluding observations (paras. 22–23), please provide detailed information on the measures adopted to ensure that the specific needs of vulnerable persons seeking asylum in Denmark, including victims of torture and/or trauma, are fully taken into consideration and addressed in a timely manner.[11] In this regard, please provide an update on the measures taken to systematically allow medical examinations for signs of torture with a view to corroborating allegations of torture during asylum procedures, following the decision adopted by the Committee in communication No. 634/2014.[12]

11. Please indicate the number of refoulements, extraditions and expulsions carried out by the State party during the reporting period on the basis of the acceptance of diplomatic assurances or the equivalent thereof, as well as any instances where the State party has offered such diplomatic assurances or guarantees, and what measures have been taken in such cases with regard to subsequent monitoring.

Articles 5–9

12. Please provide information on any new legislation or measures that have been adopted to implement article 5 of the Convention. Please also inform the Committee of any extradition treaties concluded with other States parties and indicate whether the offences referred to in article 4 of the Convention are included as extraditable offences in such treaties.

13. Since the State party's previous report was considered by the Committee, please indicate whether the State party has rejected, for any reason, the request of a State for the extradition of an individual suspected of having committed torture and whether it has started prosecution proceedings against such an individual as a result. If so, please provide information on the status and outcome of such proceedings.

14. Please clarify the mutual assistance treaties or agreements that the State party has entered into with other entities, such as countries, international tribunals or international institutions, and whether such treaties or agreements have led in practice to the transfer of any evidence in connection with prosecutions concerning torture and ill-treatment. Please provide examples.

[10] See A/HRC/32/10, paras. 120.174, 120.177 and 120.183–184.
[11] See CRC/C/DNK/CO/5, para. 39.
[12] *M.B. et al. v. Denmark* (CAT/C/59/D/634/2014).

Article 10

15. Please provide up-to-date information on educational programmes developed by the State party to ensure that all law enforcement officials, including prison staff and border guards, are fully aware of the provisions of the Convention and know that breaches will not be tolerated and will be investigated, and that any offenders will be prosecuted. Please indicate whether the State party has developed a methodology to assess the effectiveness of training and educational programmes in reducing the number of cases of torture and ill-treatment and, if so, please provide information on the methodology.

16. With reference to the previous concluding observations (paras. 46–47), please provide detailed information on the training programmes for judges, prosecutors, forensic doctors and medical personnel dealing with detained persons on detecting and documenting the physical and psychological sequelae of torture, including whether they contain specific training with regard to the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol).

Article 11

17. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any rules, instructions, methods and practices or arrangements for custody that may have been introduced since the consideration of the previous periodic report, indicating the frequency with which they are reviewed.

18. Please provide statistical data, disaggregated by sex, age and ethnic origin or nationality, on the number of pretrial detainees and convicted prisoners and the occupancy rate of all places of detention.[13]

19. In the light of the previous concluding observations (paras. 34–35), please provide information on the State party's efforts to meet the special needs of minors and women in detention. Please clarify the current legislation and policies in relation to juvenile remand. With regard to the prison institutions of Greenland, please inform the Committee about measures taken to address concerns regarding conditions of detention, and in particular whether measures have been taken to ensure that men are separated from women in all places of detention.

20. Taking note of the Committee's previous concluding observations (paras. 36–37) and the State party's follow-up replies,[14] please indicate the measures taken to ensure that pretrial detainees are separated from convicted prisoners and that juveniles are separated from adults in all places of detention.[15] Please comment on reports that remand prisoners are subjected to severe restrictions regarding contact with the outside world. Please indicate whether the State party has taken measures to bring its legislation and practice on solitary confinement into line with international standards. This should include data on the use of solitary confinement during the period under review, and an indication of its duration (paras. 32–33).[16] Please inform the Committee about the measures taken to address concerns regarding the high number of inmates with mental health problems in the institutions of the Prison and Probation Service.

21. Please provide information about the frequency of inter-prisoner violence, including cases involving possible negligence on the part of law enforcement personnel, the number of complaints made in this regard and their outcome. What preventive measures have been taken?

22. Please provide statistical data regarding deaths in custody, including in mental health detention and police custody, during the period under consideration, disaggregated by place of detention, the sex, age and ethnicity or nationality of the deceased and the cause

[13] See A/HRC/32/10, paras. 120.104 and 120.131.

[14] See CAT/C/DNK/CO/6-7/Add.1, paras. 29–37.

[15] See A/HRC/32/10, para. 120.132.

[16] See also CCPR/C/DNK/CO/6, paras. 23–24; CRC/C/DNK/CO/5, para. 17; and A/HRC/32/10, paras. 120.129 and 120.133–136.

of death. Please provide information on the results of the investigations into those deaths and on the measures taken to prevent similar cases occurring in the future. Please indicate whether relatives received compensation in any of the cases.

23. Bearing in mind the Committee's previous concluding observations (paras. 30–31), please clarify whether the State party has revised the regulations governing the use of pepper spray by police and prison staff.

24. In the light of the previous concluding observations (paras. 22–25), please indicate the measures taken by the State party to ensure that detention of asylum seekers, including unaccompanied children, is used only as a last resort, where necessary and for as short a period as possible, and to further implement in practice alternatives to detention.[17] Please provide statistical data, disaggregated by sex, age and nationality, on the number of persons detained pursuant to the Danish Aliens Act. What concrete measures have been taken to address concerns regarding the amendment to the Aliens Act adopted in November 2015 that allows the temporary suspension of fundamental legal safeguards, including judicial oversight over detention, in situations of a high influx of migrants and asylum seekers qualified as "special circumstances"?[18] Please also provide information on the steps taken to ensure the early identification of victims of torture and other vulnerable individuals and groups, and to ensure that such individuals are not detained within the context of asylum procedures (paras. 22–23).[19] What concrete measures have been taken to improve conditions of detention in deportation centres, in particular at the detention facility of Vridsløselille?[20] Please provide information on educational and recreational activities as well as adequate social and health services in asylum centres.[21]

25. With reference to the previous concluding observations (paras. 40–41), please provide information on the State party's practices relating to the use of physical and chemical means of restraint and other medical non-consensual coercive measures applicable to persons admitted to psychiatric institutions. Please also provide information on the measures taken to ensure that patients in psychiatric institutions are restrained as a last resort only and exclusively to prevent harm.[22] Please provide information on the procedural and substantive safeguards that are applicable in situations of involuntary or non-consensual commitment of persons with disabilities, including children, on health-care grounds.[23] Please specify the number of persons deprived of their liberty in psychiatric hospitals and other institutions for persons with psychosocial disabilities, including care homes. Please indicate what the situation is with respect to alternative forms of treatment such as community-based rehabilitation services and other forms of outpatient treatment programmes.

Articles 12–13

26. In the light of the Committee's previous concluding observations (para. 48), please provide updated statistical data, disaggregated by sex, age, ethnic origin or nationality and place of detention, on complaints of torture and ill-treatment recorded during the reporting period. Please include information on investigations, disciplinary and criminal proceedings, convictions and the criminal or disciplinary sanctions applied. Please provide examples of relevant cases and/or judicial decisions.

27. With reference to the Committee's previous concluding observations (paras. 18–19), please indicate what measures the State party has put in place to ensure that all alleged violations of the Convention that occurred during the transfer of prisoners by the Danish

[17] See A/HRC/32/10, para. 120.179; CCPR/C/DNK/CO/6, paras. 31–32; and CRC/C/DNK/CO/5, para. 41.

[18] See CCPR/C/DNK/CO/6, paras. 31–32.

[19] Ibid., paras. 33–34.

[20] Ibid., paras. 31–32.

[21] Ibid.

[22] See A/HRC/32/10, para. 120.130; CCPR/C/DNK/CO/6, paras. 25–26; and CRC/C/DNK/CO/5, paras. 28–29.

[23] See CRPD/C/DNK/CO/1, paras. 20–21; and CRC/C/DNK/CO/5, para. 29 (a).

contingent of the International Security Assistance Force in Afghanistan to the custody of other States' forces will be fully investigated and addressed.[24]

28. Has the State party established an obligation for all medical professionals to report torture and ill-treatment of individuals deprived of their liberty, as recommended by the Committee in its previous concluding observations (paras. 38–39)?

Article 14

29. In the light of the previous concluding observations (paras. 16–17) and paragraph 46 of the Committee's general comment No. 3 (2012) on the implementation of article 14, please provide information on the measures taken to ensure that civil proceedings relating to torture and ill-treatment are not subject to statutes of limitations. Please also provide information on redress and compensation measures, including means of rehabilitation ordered by the courts and actually provided to the victims of torture or their families since the consideration of the previous periodic report. This should include the number of requests for compensation that have been made, the number granted and the amounts ordered and actually provided in each case. In particular, please provide information on the outcome of the civil damages lawsuit brought against the Ministry of Defence by 11 Iraqi nationals who alleged they were tortured by Iraqi soldiers during a military operation run by Danish soldiers in Basra, Iraq, in 2004.

30. Please also provide information on any ongoing reparation programmes, including the treatment of trauma and other forms of rehabilitation, provided to victims of torture and ill-treatment, and on the material, human and budgetary resources allocated for their effective functioning.

Article 15

31. Please provide information on the concrete measures taken to ensure respect, both in law and in practice, for the principle of the inadmissibility of evidence obtained through torture. Please also provide examples of any cases that have been dismissed by the courts owing to the introduction of evidence or testimony obtained through torture or ill-treatment.

Article 16[25]

32. In the light of the previous concluding observations (paras. 42–43), please indicate the measures taken by the State party to guarantee respect for the physical integrity and autonomy of intersex persons and to ensure that no one is subjected during infancy or childhood to non-urgent medical or surgical procedures intended to decide the sex of the child. Please indicate the number of intersex children who have undergone sex assignment surgery during the reporting period.[26]

33. Please provide information on any measures taken to combat racially motivated crimes against persons from minority groups and non-citizens and violence against persons belonging to the Roma and Jewish communities.[27]

Other issues

34. Please comment on how the State party guarantees the protection of the rights enshrined in the Convention in the Faroe Islands and Greenland.

35. Please provide updated information on measures taken by the State party to respond to threats of terrorism, and describe if and how those antiterrorism measures have affected human rights safeguards in law and in practice. Please explain how the State party has ensured that those measures comply with all its obligations under international law, especially the Convention, in accordance with the relevant Security Council resolutions, in

[24] See A/HRC/32/10, para. 120.126.

[25] The issues raised under article 16 could also touch on issues raised under other articles of the Convention, including article 2.

[26] See A/HRC/32/10, para. 120.101.

[27] See CERD/C/DNK/CO/20-21, para. 10; and A/HRC/32/10, para. 120.95.

particular resolution 1624 (2005).[28] Please provide information on the relevant training given to law enforcement officers; the number of persons convicted under legislation adopted to combat terrorism; the legal remedies and safeguards available to persons subjected to antiterrorism measures in law and in practice; whether there have been any complaints of non-observance of international standards; and the outcome of those complaints.[29]

General information on other measures and developments relating to the implementation of the Convention in the State party

36. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the previous report to implement the provisions of the Convention or the Committee's recommendations, including institutional developments, plans or programmes. Please indicate the resources allocated and statistical data. Please also provide any other information that the State party considers relevant.

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[28] See CCPR/C/DNK/CO/6, paras. 27–28.

[29] See A/HRC/32/10, para. 120.40; and *Amnesty International Report 2016/17* (London, Amnesty International, 2017), pp. 141–142.